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**IN THE COURT OF APPEALS FIFTH DISTRICT OF TEXAS AT DALLAS**

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FILED IN  
5th COURT OF APPEALS  
DALLAS, TEXAS  
2/22/2022 4:10:48 PM  
**05-21-00242-CV, 05-21-00360-CV, 05-21-00373-CV**

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**On Appeal from the 366th Judicial District Court** LISA MATZ  
Clerk

**Collin County, Texas, Trial Court Cause No. 366-51795-2021**

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**MOTION TO STRIKE EXTENSION, REQUEST FOR COURT TO  
SUBMIT APPEALS ON RECORDS AND BRIEFS BEFORE THE COURT,  
AND REQUEST FOR HEARING ON TEMPORARY POSSESSION AND  
ACCESS ORDERS**

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**TO THE HONORABLE JUSTICES OF THE COURT,**

The previous orders of this Court were clear, specific, and direct as to the records and briefs due on February 17, 2022, yet neither Appellee, Mark Maldonado, nor the Official Court Reporter for the 366<sup>th</sup> District Court of Collin County Texas, Antoinette Varella, complied. As such, Appellant, Molly Wilkerson, request this Honorable Court strike the February 17, 2022 order granting the court reporter's extension request filed on Appellee's behalf. Furthermore, Appellant respectfully moves this court, on her own behalf and on behalf of MCM and MAM, to consider the three above-captioned appeals solely based on the records and briefs already timely before the Court, and in the event of further delay, Appellant requests a hearing for temporary possession and access of MCM and MAM. For her requests, Appellant would show the following facts and argument:

**I. RELEVANT FACTS**

## **Court Orders for Present Consideration**

1. In *Order* dated January 18, 2022, Chief Justice Burns ordered: “Antoinette Varella, Official Court Reporter for the 366<sup>th</sup> Judicial District Court, to file, ‘**WITHIN THIRTY DAYS**’ of the date of this order, either the additional reporter’s records requested by appellee or written verification that appellee has not paid the fee for preparing those records.” *See Exhibit A, Chief Justice Burns, Records Order.*

2. *Chief Justice Burn’s Records Order* continues “We caution appellee that if we receive written verification of non-payment, the appeals will be submitted on the record currently before the Court.”

3. On January 21, 2022, Appellee’s requested brief extension was granted and this Court ordered Appellee’s briefs to be filed as follows: “Accordingly, we **GRANT** the motions and **ORDER** appellee’s briefs be filed within thirty days of the filing of the additional reporter’s record.” *See Exhibit B, Moot Brief Extension*

### **Verification of Non-Payment:**

**Note: the following citations should be construed as verification of non-payment that would allow the submission of appeals “on the record currently before the Court” as Order on January 18, 2022**

4. On January 25, 2022, Appellant emailed the court reporter for an update on the status of Appellee's frivolous records request, and the court reporter responded that: [If and when Mr. Maldonado and/or his attorneys decide to go forward with the reporter's record, your copy rate will be \$1,043.30 payable to myself, and \$285.17 to Kim Tinsley. I will let you know when and if the record is ordered and you may then make payment.as detailed below.] *See Exhibit C, Notification of Records Request.*

5. On February 17, Appellant sent an email to the court reporter requesting an update as to Appellee's records request; specifically, Appellant stated: "Ms. Varela, did Mr. Maldonado buy more transcripts for the appeals? Thanks in advance for any information! -MLW" The Court Reporter informed Appellant that there were no new records requests. Additionally, the reporter indicated that Appellee had not made any attempts to obtain or pay for his frivolous records requests. *See Exhibit D, Wilkerson/Varela Email on Records Update.*

## **II. ARGUMENT**

### **Strike Extension and Order Appeals Submission**

1. On January 18, 2022, Appellee was granted until February 17, 2022, to request supplemental records and submit his response brief, and the court reporter was ordered to either file Appellee's requested supplemental records or provide

written verification that Appellee had failed to pay for his frivolous records requests. Neither Appellee nor the reporter, Antoinette Varela complied or even attempted to comply with the orders of this Court.

2. Rather than filing verification as ordered by the Court, the court reporter filed a request for an extension on Appellee's behalf on February 17, 2022. Her request states that, "I would like to request an extension of time for two reasons. First, is due to the size of the record, and, secondly, to allow the appellee more time to complete his payment agreement;" The excuse seems to imply that Appellee may or may not have used his first 30-day extension to come up with an agreement regarding the records, or maybe its implying that he had an agreement and completion meant the completion of payment rather than the completion of the agreement as the reporter explicitly states. Regardless of the vague and poor reasoning offered to support the extension request, there was no sort of documentation to support the request. The main issue remains: the court reporter failed to comply with specific orders of the Court, orders that one would assume were entered for a purpose: perhaps to prevent further sadistic attempts to delay relief for two young children being kept from their mother or maybe the order was intended to curb further frivolous requests which could be construed as disrespectfully wasting the Court's time and effort.

3. In addition to ordering the court reporter to produce written verification of payment for Appellee's frivolous supplemental records request, the order issued on January 18, 2022, specifically warns of the consequences if written verification of non-payment is received; however, there is no specificity in the Court's warning as to who can provide such. Appellant has provided written verification herein. In fact, the reporter's request for a frivolous extension and attempt to evade compliance with providing verification of non-payment, should in of itself be considered verification of non-payment. In accordance with warning regarding the verification of non-payment, the Court should strike the order granting Antoinet Varela's request for a frivolous extension and proceed with the submission of appeals on the records already before the Court.

#### **Submission of Appeals on Only Briefs Already Before the Court**

4. In addition to the submission of the appeals with only the records already before the Court, the appeals should also be submitted with only the briefs already before the Court. Appellee was ordered to file his briefs within thirty days of the filing of the additional reporter's record, and he was well aware that he had no need for the additional records he requested other than his cruel need to delay finality in the appeals, and he likely had no intention of ever purchasing them. Appellee should be held accountable for his misconduct, and if he cost himself the

timely filing of his response brief because he was more interested in delaying justice, that would be one small fraction of the accountability he deserves.

5. This Court's referenced orders should prevent Appellee from causing any further frivolous records issues because there should be no further records filed. This fact should also mean that Appellee will not have the chance to cause any further issues with frivolous delays in filing his brief either because the deadline to file briefs has passed and the extension order is moot.

### **III. CONCLUSION**

#### ***Checkmate***

This Honorable Court has been diligent and thorough in ruling on issues presented throughout these appeals, and Appellee should have no moves left to cause any further delay. The attempts to delay justice afford confidence in the reality that Appellee is going to lose these appeals as he should. Accordingly, the Court should submit appeals on the records as it warned. The Court should also strike the February 18<sup>th</sup> order granting the reporter's baseless extension request because it would be moot following submission on current records, and the failure to comply with Court's orders should not be rewarded with an extension. The Court should also consider Appellant's request for the appeals to be submitted on the briefs before the Court because his extension order should be moot as a result of his own misconduct which consequently would also mean

that his order granting an extension to file briefs would be moot. The end!

### **PRAYER**

I pray this Honorable Court grant my request for appeals to be submitted based on the records and briefs already before the Court so that this tragic chapter can be over as soon as possible without any further heartless attempts to delay the finality that could allow me to see how my kids have grown before they grow up even more. Also, I pray this Court strike the order granting the reporters extension request because I need to give my kids hugs and tell them how much I love them before another year is lost. I am not sure how the final phases of an appeal roll out but I sense that there is finality in the near future, but in case I am wrong, I pray this Court grant a hearing for temporary possession and access. Also, I don't know if I will ever file another pleading in this court again, so I want each and every person that has been part of my appeals process to know how grateful I am for your time and effort in my cases and for your overall commitment to fairness and justice. This Court reflects integrity and has the ability to restore some sense of faith and hope for humanity that can get lost to injustice. I can honestly say this is true in my case. Thank you again for all you do!

Respectfully submitted,

Molly Wilkerson

Molly Wilkerson

[missmolly2020@aol.com](mailto:missmolly2020@aol.com)

218 Castleridge Dr.

Little Elm TX, 75068

214-636-4719



**CERTIFICATE OF SERVICE**

I certify that a true copy of the above was served on Mark Maldonado's Attorneys of record as listed below in accordance with the Tex. Rules of Civ. Proc. on February 22, 2022.

**Attorneys for Mark Maldonado**

**G. Tony Mallers**

Texas Bar No. 12861500

tmallers@cowlesthompson.com

**Claire E James**

Texas Bar No. 24083240

cjames@cowlesthompson.com

**Gracen M. Daniel**

Texas Bar No. 24116248

gdaniel@cowlesthompson.com

*/s/ Molly Wilkerson*  
Molly L. Wilkerson /Pro se

**Julia F. Pendery**

Texas Bar No. 15744050

jpendery@cowlesthompson.com

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Associated Case Party: Mark Maldonado

Name	BarNumber	Email	TimestampSubmitted	Status
Claire James		cjames@cowlesthompson.com	2/22/2022 4:10:48 PM	SENT
George AnthonyMallers		tmallers@cowlesthompson.com	2/22/2022 4:10:48 PM	SENT
Gracen Daniel		gdaniel@cowlesthompson.com	2/22/2022 4:10:48 PM	SENT
Julia Pendery		jpendery@cowlesthompson.com	2/22/2022 4:10:48 PM	SENT

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Tom Nowak		366@co.collin.tx.us	2/22/2022 4:10:48 PM	SENT

Associated Case Party: MollyLWilkerson

Name	BarNumber	Email	TimestampSubmitted	Status
Molly Wilkerson		missmolly2020@aol.com	2/22/2022 4:10:48 PM	SENT